

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

JOSEPH M. STONE,

Petitioner,

WAYNE BRANDON, Warden,

Respondent.

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NO. 3:04-0314
JUDGE HAYNES

O R D E R


In accordance with the Memorandum filed herewith, the Respondent's motion for summary judgment (Docket Entry No. 17) is **GRANTED** in part, and **DENIED** in part and the Petitioner's motion for summary judgment (Docket Entry No. 22) is **GRANTED** as to Petitioner's ineffective assistance of counsel claim, but is otherwise **DENIED**. The writ shall issue, and the State will have 120 days to retry the Petitioner.

The parties shall have ten (10) days from the date of entry of this Order to file a request for a Certificate of Appealability under 28 U.S.C. § 2253(c) describing the issue sought to be appealed.

This is the Final Order in this action.

It is so **ORDERED**.

ENTERED this the 3rd day of January, 2006.


WILLIAM J. HAYNES, JR.
United States District Judge